



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No.2680-00

28 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 16 September 1992 for two years as an SA (E-2). The record reflects that you served without incident until 12 January 1993 you were seen at sick call on the recommendation of your leading petty officer. He related that you had been set back to the next convening class due to academic difficulty. When you were asked why you were referred, you stated that your immediate supervisor felt that you were stressed and needed a psychiatric consult. You claimed that you immediate stress evolved around your desire to terminate any further military service. You stated "I know I've been trying to do well in school but I just can't get it. I want out of the military." You also admitted to increased alcohol intake to cope with stress.

On 8 April 1993 you received nonjudicial punishment (NJP) for drunk and disorderly conduct. Punishment consisted of forfeitures of \$250 per months for two months, with one month suspended for a period of three months; and 45 days of

restriction and extra duty.

On 15 April 1993 the counseling and assistance center (CAAC) advised that you had been evaluated and disclosed evidence of possible alcohol dependence. On 20 April 1993, you were evaluated and interviewed by the ship's medical officer who opined that you were alcohol dependent, but your potential for rehabilitation was poor. Separation was recommended unless you were determined by the command to have exceptional potential, in which case level III in-patient treatment was recommended.

On 3 June 1993 you refused to participate or cooperate in a level III in-patient treatment program. You acknowledged that refusal was grounds for processing for administrative separation. Thereafter, you were notified that you were being considered for discharge by reason of alcohol abuse rehabilitation failure. You were advised of your procedural rights, declined to consult with counsel, and waived your procedural rights. You did not object to the discharge. On 29 June 1993 the discharge authority directed an honorable discharge by reason of alcohol abuse rehabilitation failure. You were so discharged on 29 June 1993 and assigned an RE-4 reenlistment code.

Regulations provide that an individual may be separated for alcohol abuse rehabilitation failure if there is a lack of potential for continued naval service, and the individual shows an inability or refusal to participate in, cooperate in, or successfully complete a level II or III rehabilitation program. Regulations also require the assignment of an RE-4 reenlistment code to individuals discharged by reason of alcohol rehabilitation failure.

The Board noted your contention that after the NJP you were given an option to receive treatment or be discharged, and you declined treatment because your father was in poor health and he had a heart attack a week after the NJP. You also provide a letter from your father confirming that he had triple bypass surgery after his heart attack and that you were granted emergency leave prior to being released three months later. You also provide evidence that you are now a licensed vocational nurse.

The Board noted the aggravating factor that in January 1993, you already wanted to be discharged from the Navy because of academic problems in "A" school. The Board understands such failures are frustrating and embarrassing. Noticeably absent at that time was any indication of your father's poor health or that it was a contributing factor in your academic problems. While you father's heart attack most certainly heightened your desire to be discharged, there is no evidence that you sought assistance through the chain of command in obtaining the required affidavits to support a humanitarian reassignment or a hardship discharge.

Further, you provide no evidence to refute the Navy's diagnosis of alcohol dependence. Your father's assertion that you would not have to leave the service if he or your mother became incapacitated again is neither realistic nor reasonable, and is not relevant to the reason for which you were discharged. Your achievement in becoming a licensed vocational nurse is notable but does not provide a valid basis for changing a correctly assigned reenlistment code. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director